
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Metro TV, Inc.)	File No.: EB-FIELDNER-14-00013731
)	
Licensee of Station WVOA-LP)	NOV No.: V201432400017
)	
East Syracuse, New York)	Facility ID: 14319
)	

NOTICE OF VIOLATION

Released: March 17, 2014

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Metro TV, Inc. (Metro TV), licensee of Low Power Television Station WVOA-LP in East Syracuse, New York. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On February 7, 2014, agents of the Enforcement Bureau's Philadelphia Office inspected Station WVOA-LP located at 7095 Myers Road, East Syracuse, New York and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol (CAP) are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in §11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§73.1820 and 73.1840 of this chapter for all broadcast streams...." During the period between November 2013 and February 2014, Metro TV failed to (1) receive Required Weekly Tests for two weeks in December 2013 and for the month

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

of January 2014, (2) receive Required Monthly Tests for the months of November 2013, December 2013 and January 2014 and (3) receive CAP-formatted messages. There were no entries in the station log explaining why these tests were not received.

- b. 47 C.F.R. § 11.52(d)(1): “With respect to monitoring for EAS messages that are formatted in accordance with the EAS Protocol, EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.” At the time of inspection, WVOA-LP was monitoring only one of its two assigned EAS assignments, FM Station WNTQ on 93.1 MHz. WVOA-LP failed to monitor FM Station WYYY on 94.5 MHz, as required by the New York State EAS Plan.
- c. 47 C.F.R. § 11.61(a)(1)(i): “Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code....must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State....” WVOA-LP failed to retransmit the Required Monthly test on February 3, 2014, within 60 minutes of receipt of the test.³
- d. 47 C.F.R. § 73.1870(b)(3): “The designation of the chief operator must be in writing with a copy of the designation posted with the station license....” At the time of inspection, Metro TV had not made the designation of the chief operator in writing.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Metro TV must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

³ Although the RMT was received on February 3, 2014 at 4:23 a.m., Metro TV did not retransmit the test until 9:55 a.m. on that same day.

⁴ 47 U.S.C. § 403.

⁵ 47 C.F.R. § 1.89(c).

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5. In accordance with Section 1.16 of the Rules, we direct Metro TV to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Metro TV with personal knowledge of the representations provided in Metro TV's response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

7. This Notice shall be sent to Metro TV, Inc. at its address of record.

8. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
District Director
Philadelphia Office
Northeast Region
Enforcement Bureau

⁶ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁷ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).